Let's look at the remaining approximately 25 percent. Basically, the other 25 percent are women who are single, women involved in divorce. If we look over this chart, we see that in 1981—red representing joint bankruptcies, yellow the men, and blue the women—single women were third, behind joint filers and less than men. Joint bankruptcies continued. The women passed the men in 1991. In 1999, the women were No. 1. They came from being third, virtually about one-fifth of the total, to now being almost half the total.

Who are these individuals? Who are these women? These are women who have not been able to claim their alimony. A great percentage of these are women who are unable to get child support to which they are entitled. What happens to them? They end up in bankruptcy.

Then we find out how the new provisions in this bill treat them. They treat them much more harshly. I'm not the only one saying it, although I have repeated it. Virtually every single group that is an advocate for children, women, or workers agrees, let alone the bankruptcy professionals involved in this. That is what this bill is about.

I have a list of those groups that are strongly opposed to it. The various women's groups include: National Women's Law Center, National Partnership for Women and Families, Children's Defense Fund, American Association of University Women, Church Women United, Coalition of Labor Union Women, National Center for Youth Law, Center for Child Care Workforce, the YMCA, and Children NOW. The labor groups include: The AFL-CIO, Communications Workers of America, United Steelworkers of America, International Brotherhood of Teamsters, and the list goes on. Other key groups include: Leadership Conference on Civil Rights, Consumers Union, Consumer Federation of America, Religious Action Center, Alliance of Retired Americans, and National Senior Citizens Law Center.

This is just part of the list of groups whose prime responsibility is representing vulnerable children. That is the purpose of the Children's Defense Fund. The other organizations protect women in our society from the harshness of legislation and from the inequities of the workplace. All of them are universally against this legislation because they find it puts a harsh burden on children, women, workers, and on those who have experienced a significant increase in their medical bills. That is what is happening. This is a profile of those individuals who are going into bankruptcy.

Generally at the end of the day around here, we look at pieces of legislation and ask on the one hand, who benefits and on the other, who pays. It is not a bad way of looking over legislation. If we had more of that around here and we looked out for average working families, we would come to some rather different conclusions. We certainly would on this one because virtually the entire bankruptcy bar, those professors who are teaching in law schools in the North, South, East, and West, as well as judges, have come to the same conclusions.

Members of the Judiciary Committee have reviewed it as a result of the hearings. Advocates of the various groups have been out there time and time again. One might find fault with one particular group, but virtually all the groups that represent children and workers are opposed to this legislation because of its unfairness.

Those who will benefit are the credit card industry and the banks, make no mistake about it. That is enormously interesting to me, as someone who is the prime sponsor of the minimum wage. We can find time for consideration of the bankruptcy bill; yet we do not have time to look at an increase in the minimum wage for hard-working Americans. We cannot find time to schedule that, but we can find time to consider legislation that is going to benefit some of the wealthiest and most powerful companies and corporations in America. Make no mistake about it, that is what this legislation is about.

As this institution and its leadership is about choices, make no mistake what the choice is. The choice is to look after the interest of the credit card companies and the banks. That is first. It is early March, and that is where we are. I hope the American people are aware of this legislation and its implications.

DEPARTMENT OF LABOR ERGONOMICS RULE

Mr. KENNEDY. Mr. President, I want to speak on another issue affecting working families that also will be coming up in a very few hours. That is the proposal that will be made by, as I understand, our Republican leadership or representatives introducing legislation which, after a 10-hour agreement, will vitiate the existing rules to protect American workers from ergonomic injuries.

If we asked Americans 10 years ago what ergonomic injuries were, a great many Americans would not have been able to pronounce the word ''ergonomic,'' and they really would not have had much of an understanding as to what the problem was.

Interestingly, there was a very courageous and brave woman who did understand that problem and that challenge and was willing to do something about it. That was then-President Bush's Labor Secretary, Elizabeth Dole. This is what the Secretary of Labor said about ergonomic injuries in 1990, 11 years ago:

> One of the Nation's most debilitating across-the-board worker safety and health illnesses. . . .
>
> We must do our utmost to protect workers from these hazards. . . .
>
> By reducing repetitive motion injuries, we will increase both the safety and productivity of America's workforce. I have no higher priority than accomplishing just that.

That was 11 years ago. Over the period of the last 10 years, we have had study after study by the National Academy of Sciences, by the Institutes of Medicine, by a range of different independent groups. Finally at the end of last year, there was the promulgation of a rule to provide protection.

For whom are we providing protection? Basically, ergonomic injuries are repetitive motion injuries, including carpal tunnel syndrome, tendonitis, and back disorders. Ergonomic injuries occur across the board. Among those affected are secretaries who endure carpal tunnel syndrome from the use of computers, factory workers who pick up and place equipment on assembly lines, nurses who suffer back injuries from lifting patients, and high-tech workers who sit at keyboards all day long. All across our new economy, these injuries are taking place.

Let's look at the numbers of people affected. The source is the Bureau of Labor Statistics in the year 2000. There are 1.8 million ergonomic injuries reported yearly, and 600,000 people lose time from their work yearly. Ergonomic injuries impose annual costs of $50 billion; account for over one-third of all serious job-related injuries; and account for over two-thirds of all job-related illnesses.

Why do I bring this up? We were talking a few moments ago about bankruptcy, and that is the measure before the Senate. Tomorrow, on a privileged motion, without any other earlier statement, only what we have read in the newspapers and in the last several hours have confirmed, we will face a motion made by the other side under particular procedures. We will permit only 10 hours of debate, and if that motion carries, the rule that was in the works for 10 years will be wiped out within a 10-hour period. The way the language of the law is drafted, there will be little recourse to reissue the rule in its current form.

That is what will be before the Senate tomorrow. We will get off this bankruptcy bill with time enough to look after another major issue of special importance to the Chamber of Commerce and the National Association of Manufacturers. Of course, the Chamber of Commerce has a direct interest in bankruptcy, because of the credit card industry and the banking industry. The Chamber of Commerce is leading the battle on this bankruptcy bill.

The Chamber is looking for a twofer this year. They are looking for two big wins at the expense of working Americans: one, in the area of bankruptcy;

two, in undermining existing protections to ensure the health and safety of workers in the workforce.

That is why I take this time. We will find out tomorrow if there will be a motion to debate this issue. We will not be debating the issues of bankruptcy. We will be debating this. How many colleagues will know this when they come to their offices tomorrow? It will be interesting because there has been virtually no notice given to us.

If the Administration has concerns about the existing ergonomics rule, the rule could be adjusted, could be changed, or could be altered without use of this motion. The Administration has an available administrative process and procedure to make changes in the rule. We could have addressed concerns about the rule through hearings and delayed implementation of the rule. But opponents of the rule say: No, we think we have the votes to eliminate it altogether and put 1.8 million workers at risk. We think we can add up the votes and destroy the rule tomorrow afternoon after 10 hours of debate.

Under the law, if opponents of the ergonomics rule have the votes, they can even shorten the debate. Then at the end of the day we will find those 1.8 million workers without any kind of protection. That is what is happening.

I don't know where the speakers are on this issue. Hopefully, we will have a chance to debate this more tomorrow.

Women are disproportionately harmed by ergonomic hazards. Women comprise 47 percent of the total workforce and incur 33 percent of the total injuries in the workforce. But women constitute 64 percent of all those who lose time from work because of repetitive motion injuries, and 71 percent of those who lose worker time for carpal tunnel injuries. The ergonomics rule is thus of special benefit for women who are out there working, trying to provide for their families. They are the ones primarily injured. They are the ones who lose time. They are the ones who will suffer most if the ergonomics rule is eliminated.

If there are problems with the rule, we can amend it, we can change it; we can alter it.

We are prepared to do that. Let's get the best in terms of the private sector and the workers, the women's groups, and others, and try to fashion something. But oh, no. The other side is saying: let's just tear up the rule and throw it out. That is what the proposal will be.

We hear a good deal about this new spirit taking place in Washington, DC. This is not in evidence in the Senate, where they send two bolts right at working families, first through the the bankruptcy bill and second, by taking this extraordinary step to destroy the ergonomics rule. I think this is the first time we have used this provision, enacted 5 or 6 years ago, in order to put workers all across this country—in the new economy and in the older economy as well—at serious risk.

I will come back to who is in favor of this action. Virtually every medical group and health care group supports the ergonomics rule. But not the Chamber or the National Association of Manufacturers.

Let's look at what the Chamber claims as to why the ergonomics rule ought to be repealed. The Chamber claims the rule is not supported by sound science. This is the first myth.

We have seen in debate time and time again, more often now than before, individuals misstate the position of the opposition and then differ with it. It is an old debating technique. I have had Members who have described my amendments in a way I could not understand and then said they differed with them. That is a tried and tested technique that should be discounted, but too often it is not. And it is what is at work here.

Let's listen to what has been said about the rule. I have the NAM statement, which lists seven reasons we ought to be against the ergonomics rule. We have the Chamber of Commerce statement. I will state these for the record because it is important they be answered. Whether we will have a chance to do that tomorrow or not, we will do the best we can.

First, the Chamber says that the bill is not supported by sound science.

The recent National Academy of Sciences study proves conclusively that workplace practices cause ergonomic injuries and that ergonomic programs work to prevent and limit these injuries. That study confirms the results of thousands of prior studies.

This National Academy of Sciences study was primarily focused on lower back and upper extremity musculoskeletal injuries. It stated that:

> The panel concludes that there is a clear relationship between back disorders and physical load; that is, manual material handling, load moment, frequent bending and twisting, heavy physical work, and whole-body vibration. For disorders of the upper extremities, repetition, force, and vibration are particularly important work-related factors.

It goes on. You can read the conclusions. The Chamber's claim that the rule is not supported by sound science is categorically false and misleading.

The National Association of Manufacturers claims the rules set too low a threshold and that one job-related complaint will trigger the rule.

Right? Wrong. Wrong. They are wrong. This standard sets a threshold that is lower than the ones OSHA has set in other rules, including its lockout-tagout standard, asbestos standard, and blood-borne pathogen standard. In these rules, employers must take action if an employee is merely exposed to a risk. These are rules that OSHA has adopted and that are in effect, despite the opposition of the Chamber of Commerce and the National Association of Manufacturers.

Under the ergonomics rule, even if there are serious ergonomic hazards in a workplace, an employer is not required to look for or correct those hazards until after a worker is injured or has signs or symptoms of an injury. One complaint requires an employer to determine that an injury is work related and that exposure to risk is at significant levels. It does not trigger the entire program.

Once there is an injury, in other words, the employer makes the judgment whether it is work related—the employer makes that judgment. Then, after that, the employer has to find that the individual has been exposed to the risk at significant levels. It is only then that other requirements of the rule are triggered.

So the National Association of Manufacturers' claim that the rule sets too low a threshold is just not an accurate representation as to what the rule does.

Third, the National Association and the Chamber claim the rule covers injuries that are not caused by workplace practices. But under the rule, as I mentioned, the employer decides that an injury is work related. They are thus completely wrong in that statement as well.

They go on. The Chamber claims the rule imposes an impractical, overreaching, and one-size-fits-all approach. The reality is the rule allows employers to determine how best to deal with ergonomic problems in their workforces. The rule doesn't mandate specific solutions. If an employer decides an injury is work related, the employer must then determine, based on a simple checklist set forth in the rule, whether the employee has suffered sufficiently severe exposure to require action. If so, the employer can decide on the solution it wants to adopt.

The Chamber claims the rule will be extremely costly for business. After an exhaustive analysis of the issue, the Department of Labor estimated the rule will result in a net savings—savings—of $4.5 billion each year in reduced workers compensation costs and increased productivity.

Numerous business leaders have found the ergonomics programs they have implemented have saved a good deal of money. I am going to come back to that in just a moment.

Next, the Chamber claims the rule requires higher payments than workers' compensation and overrides State workers' compensation laws.

The payments to workers are necessary to encourage them to report their injuries before they worsen and before other workers are needlessly exposed. This is not a new concept. It has been used for 20 years. It was used in the lead, benzene, cadmium, formaldehyde, and ethylene chloride standards.

The idea is to try to get the workers to report their injuries at an early time, before they become permanently injured and before the costs and the loss of time escalate dramatically. So the Chamber clearly misrepresented what the current status of the law is and what the precedents have been.

Again, the NAM alleges OSHA has admitted the rule's grandfather clause will not grandfather any employers. OSHA has not ever made this statement. In fact, OSHA predicts many employers will be grandfathered in. The NAM's statement is basically flagrantly misleading and wrong.

The NAM claims the DOL ignored the will of Congress by issuing the rule. The fact is, in funding the National Academy of Sciences study of ergonomics in 1999, the Congress expressly promised it would not be used to delay issuance of the rule. This is what Bob Livingston and DAVE OBEY said when they were the Chair and the ranking member of the House Committee on Appropriations.

Mr. President, I ask unanimous consent to have the full letter presented in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 19, 1998.

Hon. ALEXIS HERMAN,
Secretary of Labor,
Washington, DC.

DEAR MADAM SECRETARY: Congress has chosen not to include language in the Fiscal Year 1999 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act that would prohibit OSHA from using funds to issue or promulgate a proposed or final rule on ergonomics. As you are well aware, the Fiscal Year 1998 Labor, Health and Human Services and Education and Related Agencies Appropriations Act did contain such a prohibition though OSHA was free to continue the work required to develop such a rule.

Congress has also chosen to provide $890,000 for the Secretary of Health and Human Services to fund a review by the National Academy of Sciences (NAS) of the scientific literature regarding work-related musculoskeletal disorders. We understand that OSHA intends to issue a proposed rule on ergonomics late in the summer of 1999. We are writing to make clear that by funding the NAS study, it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.

Sincerely,

BOB LIVINGSTON,
Chairman.
DAVE OBEY,
Ranking Member.

Mr. KENNEDY. The letter says: ''We understand OSHA intends to issue a proposed rule on ergonomics late this summer. We are writing to make clear that by funding the NAS study, it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.''

So NAM claims that DOL ignored the bipartisan will of Congress are completely, blatantly, flagrantly wrong, as are so many of the other claims. Here, when Congress asked for the study, they understood there would not be a delay. They wanted the information.

Furthermore, the NAM states the NAS study did not address the issue of causation and repeatedly called for more study. The Academy, Mr. President, explicitly stated it had done sufficient work to support conclusive findings that workplace practices cause ergonomics injuries.

The CRA, the procedure which will be in use here, is a unique procedure which is violative of the traditions of this body which permit and encourage debate and discussion and then action at the termination of debate. We have the 10-hour limitation on debate, and then an up or down vote that will lead to elimination of the rule, instead of altering or changing it.

The NAM claims that use of CRA ''will not bar the Department of Labor from adopting an ergonomics rule in the future.'' They ought to read the provisions of the CRA, which I believe will exclude the possibility for getting any kind of action in the future.

I want to take a moment to show what some businesses have said about this particular proposal over a period of time. Business leaders agree that ergonomics programs work. Peter Meyer of Sequin International Quality Center said:

We have reduced our compensation claims for carpal tunnel syndrome through an effective ergonomics program and our productivity has increased dramatically and our absenteeism has decreased drastically.

This is from Business Week, which should not be considered to be a part of the working families establishment. In December of the year 2000, Business Week said that for most companies, ''the likely outcome will be dramatically fewer employees with ergonomics problems and long-term cost savings to boot.''

We have a number of those different statements by businesses that have gone ahead and created ergonomics programs on their own.

American scientists also call the ergonomic rule ''necessary and based on sound science.''

These are the various groups—Orthopedic Surgeons, Association of Occupational Health Nurses, Occupational Therapy Association, Society of Safety Engineers, Chiropractic Association, Public Health Association—that believe the rule which has been promulgated makes sense in protecting American workers. But with one single vote, we are going to have a situation where that rule is cast aside—no alterations, no changes, and no modifications. It is just take it or leave it because we have the votes, and there will be no attempt to try to work this out, no attempt in terms of the word ''civility'' to try to listen to the other side in making some alterations and changes. No. It is just: We have the votes to knock out this provision and undermine protection for Americans—primarily women—in the workforce, and we are going to do that tomorrow in a 10-hour period. I think the arrogance of that position with regard to protecting workers is absolutely unacceptable.

This particular proposal has been 10 years in the making, and in 10 hours we will effectively have it undone. I would have hoped for some opportunity to discuss this. Instead, tomorrow we will have only the 10 hours to go through these measures.

We hear a great deal also about the volume of the rule itself. It has been misstated that it is 600 pages. It is closer to eight or nine pages. Those are the rules.

I believe these rules represent the most important rulemaking to protect American workers that we have had in recent times. It is the most important rule that we will have for the next several years. It will make major differences in terms of the health and safety and the productivity of the American workforce. Without this kind of protection, we are putting at significant risk tens of thousands or hundreds of thousands of American workers. We are doing that in 1 day of votes in the Senate. That is wrong. That is absolutely wrong.

We will be denied the opportunity to try to make adjustments or changes if we want to do it. There is a procedure to be able to do it. But absolutely no. Our opponents say: We have the votes, and we are going to turn our backs on American workers, particularly on women, who are looking for some protection.

I am hopeful this measure can be defeated. But it is a bad day and a sad day for American workers when it is even brought up for debate.

I yield the floor.

Mr. ENZI. Madam President, I ask unanimous consent that my remarks follow immediately those remarks of the Senator from Massachusetts who spoke immediately before Senator GRASSLEY so that Senator SESSIONS' comments will flow on Senator GRASSLEY's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Madam President, I thank the Senator from Alabama. First, I congratulate both the Senator from Iowa, Mr. GRASSLEY, and the Senator from Alabama, Mr. SESSIONS, for their ultimate effort on the bankruptcy bill. They have both done an excellent job, as well as the people on the other side of the aisle who have contributed to a bipartisan bill, a bill the Senator from Iowa mentioned we passed before.

I have been the subcommittee chairman for international trade and finance, and, as such, I got to oversee some of the International Monetary

Fund bailouts of some of the other countries that got into an economic crisis. When that happened, we forced them to do bankruptcy. We forced them to do what we have been talking about. They did it, and their economies came back.

It is a little embarrassing to revisit those countries and have them say: How come you folks have not taken your own advice?

I appreciate all the effort that my colleagues have put into this. It is extremely crucial for the United States and for the consumers and for the individuals of this country.

The reason I am here, though, is not to deal with bankruptcy. The speech preceding mine was not a speech on bankruptcy. It was a speech on ergonomics. The Senator I succeeded, Senator Simpson, used to say: Charges unanswered are charges believed.

I must discuss the ergonomic comments that have been made. This is a preview of tomorrow. Tomorrow, we will have a full-blown debate, I hope, on ergonomics. It is an extremely crucial issue for every single person in this country. It is very important we do it and we do it right. I put the emphasis on doing it ''right.''

The reason we are going to have a debate tomorrow is it has been done wrong. We will invoke the Congressional Review Act tomorrow, the first significant use of it since it was passed. I congratulate the two people who were primarily responsible for bringing the Congressional Review Act to the Senate, the Senator from Oklahoma, DON NICKLES, and the Senator from Nevada, HARRY REID—one a Democrat, one a Republican.

It was a bipartisan bill. Why was it a bipartisan bill? Congress has the responsibility for passing laws in this Congress. We have gotten in the habit of delegating our responsibility. It is much easier than hashing out details, to put in a little part in the bill that says we want an agency to write the rules.

The reason we passed a Congressional Review Act is we gave that responsibility away and we didn't like what the agencies did. I am sure each Member who has dealt with an agency and their rules have had occasion to say somebody ought to jerk them back to reality. That is exactly what those two Senators did—one a Republican, one a Democrat. They deserve congratulations from this body.

Now we need to have the courage to use what they and others did. Although I was not here when it was passed, I suspect some of the people criticizing the Congressional Review Act now were here when it was passed. I suspect some of them voted for it.

Now we want to use it on a rule they have some interest in, and they don't want to touch it using that act. I think it is very important we use the Congressional Review Act, we congratulate the people who passed it, and we need to put it to use on this ill-conceived rule.

The ergonomics rule has to be the worst rule ever passed by any government agency. It was passed quicker than any other rule by OSHA. We will hear comments that Elizabeth Dole noticed it and mentioned it 10 years ago. I have found references to businesses who knew about it, noticed it, and did something about it, considerably before Elizabeth Dole noticed it 10 years ago. I have been proud of some of the businesses that have made extensive efforts to handle ergonomics in the workplace in spite of not having a rule in place. But regardless of how long ago the issue was first mentioned, OSHA's rule was only proposed less than a year before the final rule came out.

It is not the intent of business to hurt employees. It is better business to protect employees. One of the difficulties with ergonomics, an injury does not just happen at work. It happens all sorts of places. It is hard to tell where it happened, when it happened, and how it happened.

Putting that aside, we need to have an ergonomics rule. We need to be dealing with it in every possible way. But we have to have a rule that does something, not just costs something. Part of that cost is not going to just be dollars. The estimated $4 billion to perhaps $100 billion is a pretty wide range of numbers. The biggest cost is going to be in American jobs. This will get down to the workers, the people we are not allowing to talk about how to solve the problem, the workers closest to the job, the ones who are doing the lifting or typing or hammering or whatever repetitive motion is involved. No, we have our government set up so the bureaucrats try to find solutions and special committees of speakers can be set up to talk about it and mandate one solution for all. But the guy doing the work, who sees it each and every day, who says there is a better way to do this, cannot decide how his job can be done better. And in most circumstances it is not even legal to ask him about it. There is a law that says employers better not talk directly to employees about safety. But workers are suffering. We need to do something about it.

Fortunately, many businesses already are. According to OSHA, even before the rule, in the last 5 years, there was a 22-percent decrease in ergonomics injuries. The Bureau of Labor Statistics gives business far more credit for having done something than does OSHA. Perhaps OSHA has an ulterior motive?

At any rate, businesses, when they know what to do, generally do it. I have to say ''generally.'' I always hear the arguments on the floor, not just dealing with OSHA but dealing with a lot of topics, one side talks about the bad businessmen and the other side talks about the fraudulent employees. Neither side is right. Yes, there are bad businessmen. Yes, there are fraudulent employees. But not very many, thank goodness.

I would say there are 5 percent of the businesses in this country with businessmen who are ethically challenged. There are about that many employees who are ethically challenged. Out of that 5 percent, many of them just don't care. That's about 3 percent, I think, who generally don't care. No matter what kind of law is passed, they don't care, so it doesn't matter what you do. That is both sides.

Of all those who are ethically challenged, I think only one tenth of one percent is truly bad, bad to the bone. That might even be high; might be a little low. But even though the rules and laws in this country affect every single person, they are written as if they are only for the one-tenth of 1 percent who were bad to the bone. That is pretty much what this rule is designed to do.

If you want people treated as though they are bad to the bone, both employers and employees, maybe you don't think this rule is so bad. But if you don't, I urge you to vote with me to reverse the ergonomics rule.

We heard criticisms of the rule by people who had written letters. Some of those were: The rule is bad; the rule has massive flaws in it. Some things were taken out of context. I hope we get into those tomorrow. We held hearings in the Labor Subcommittee; the Employment, Safety and Training Subcommittee of the Committee on Health, Education, Labor, and Pensions. We held hearings. This is a book of the hearings.

We held two specific hearings on the way it will affect health care in this country. We talked about how OSHA needs to resolve the conflict between the ergonomics rule and the medical rules so you don't have to violate one to achieve the other. We talked about the way the payments for Medicare are locked in at a rate that doesn't recognize the costs OSHA recognizes, the costs that facilities providing Medicare will have to pay. The rule doesn't mention that. We also talked about workers' comp in our hearings. We had people who weighed in from New York, Pennsylvania, and New Mexico. We talked about the way the rule infringes on workers comp.

In the OSH Act, there is a specific provision prohibiting infringing on workers comp. Workers comp is a system that has been developed in the States, by the States, over decades. There isn't a single thing in place in the OSHA administration to take care of the kinds of controversies, the kinds of processes that will have to be dealt

with to handle workers comp. They get into workers comp.

Did they listen to what we had to say at the hearings? Not at all. They didn't listen to what was said by the professionals in the field, the State people in the field, the people on the panels, or the Senators asking the questions. You won't find any of it has wound up in the rule they put out. What kind of Government do we have that doesn't listen?

You heard some groups that are in favor of the ergonomics bill, ergonomics rule. I am not surprised they are in favor of ergonomics protection, so am I. What we should not be in favor of is this particular ergonomics rule. This rule will bind up what business is able to do.

As I said, tomorrow we will get into more of the differences, the flaws and things about which they did not listen. But there is a big problem with this one that deserves use of the congressional review act. Here is what it is. The process was flawed. How they passed it was atrocious.

I am ashamed that any agency of our Government did business the way they did business. What did they do? Just a few things I will mention today. Listen for full details tomorrow.

They paid people to testify on their behalf. They reviewed and corrected their testimony before it was given. They brought them in for practices. Then, worst of all, they paid them to rip apart the testimony of the individuals who came on their own to testify. Yes.

We cannot allow our Government to pay people to destroy the testimony of other citizens in this country who have the right to speak on any rule as well.

After that happened, and after I mentioned it on the floor, I got to meet with the Assistant Secretary of OSHA and asked him about it. I asked him what the process was going to be like. I was a little curious as to whether they were going to try to push through this rule.

I mentioned they talk about how Liddy Dole mentioned it 10 years ago. But this rule did not get published until a little over a year ago. The first time it was published that anybody could actually look at a document and say this is what it says was less than a year before the time it was finalized—less than a year. The average rulemaking time on things much less difficult than ergonomics is 4 years. It takes 4 years to get a rule in place.

I contend, on a lot of these things, we should get together. We could agree on most of it and get things in place in a shorter time than OSHA can react. But the two sides don't talk, and separately they keep working on that one-tenth of 1 percent of the people who are bad to the bone.

I had this meeting with the Assistant Secretary of OSHA. I mentioned some of the things with which we had some concerns based on the hearings. He admitted he was an advocate for the rule the way it was.

It seems to me the agency ought to be listening to the comments. I do not see how you can be an advocate and still heed what people have said about what you wrote. I was concerned about that. I brought it up with him. I said: Can you give me any indication that you will make any changes in light of the testimony we have presented? He could not comment on that.

But I can tell you, now that I have seen the final rule that is published, he not only didn't listen to me, he didn't listen to the comments that were there. I have to tell you, the final rule that was published was far more difficult than the one on which we had to comment.

We cannot have that kind of activity in this country. What if agencies wrote a rule and published it, one with which they knew everybody would agree, then they took testimony, they took comments, they tabulated it—which was not done in the instance I am talking about, or at least I don't see how it could have been done—and then they published a final rule that was totally different from the one on which they took testimony?

That is why we need a CRA, to jerk people back to reality who think they know the way to do it and do not take into consideration the comments of the people of this country.

We have a document that is flawed. We have a document that was done the wrong way. We need to redo it.

You may also hear that the CRA prohibits reissuing the rule if it is ''substantially the same.'' That is absolutely correct. Probably another brilliant idea that was put in the bill by the bi-partisan co-sponsors. ''Substantially the same'' doesn't mean it cannot be done at all. It means that agency that jerked people around before cannot take the same thing, change a word, and put it back out as a rule again, which would put us in the continuous motion of overriding an agency's ill will. We would do it if we had to. But that is what the Congressional Review Act is designed to avoid. It should not be that difficult. With civility and bipartisanship, we ought to be able to arrive at a new approach, and not just on this rule.

Did you know, on the rules that OSHA has passed, we rarely revise a single one? Do you think technology has changed in 28 years? Do you think there is any need to change anything that was written 28 years ago? You had better believe there is, and we need to find a system to do it. I pledge to work toward a system that will allow safety for the workplace to get into place easier, quicker, and more effective than it is right now. I am sure business and labor will join in that effort to make sure we get more safety in the workplace.

Madam President, I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Iowa.

BANKRUPTCY ACT OF 2001—Continued

Mr. GRASSLEY. Madam President, I am the author of this bankruptcy bill that is before the Senate. I know I am not the first to speak on it today. There have been proponents and opponents of it.

Also, let me make very clear that thus far today there have been both Republicans and Democrats speaking in favor of the bill that is before us.

I am very happy to be here to discuss this legislation. I thought last December, when we got it to the President, might have been the end of it and we would have a bankruptcy bill as the law of the land—the first major bankruptcy legislation to pass this body since 1978 or 1979.

Prior to Senator KENNEDY's remarks about the rules that we will be working on, Senator KENNEDY gave all of us an opportunity to see a list of organizations that oppose this bill. I think it is perfectly correct for Senator KENNEDY to express the views of anybody who opposes the bill and in support of his opposition to the bill. But there is a flip side of all of the membership of all the organizations that Senator KENNEDY said were opposed to this legislation. That flip side is that they all have members that, because some people in this country don't pay their bills, those who do pay their bills and buy products from companies that have creditors that have gone into bankruptcy, those very same members could, on average for a family of four, pay $400 more for goods and services that they would purchase because other people go into bankruptcy and don't pay their bills. There is no free lunch.

I hope we have as much concern about the well-being of the members of those organizations that do not go into bankruptcy and have to pay more because they are supporting legislation to maintain the status quo where it is easy to go into bankruptcy and let somebody pick up the cost of your going into bankruptcy.

That doesn't preclude that I believe firmly in the principle of a fresh start when people go into bankruptcy because of causes that are no fault of their own. Obviously, in those instances, there are costs to all of us who pick up the bill. But what this legislation is trying to change is the fact that there is an attitude out there of using the bankruptcy code for financial planning when you have some ability to repay. We are saying to those people who file for bankruptcy who have the ability to repay—and, albeit, they